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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 EMERSON BELL

12 Petitioner,

13 vs.

14 STATE OF CALIFORNIA,

15 Respondents.
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CASE NO. ED CV 09-02088 GHK (RZ)

ORDER SUMMARILY DISMISSING
ACTION

17 The Court will dismiss the action summarily, for Petitioner plainly states no
18 valid claim – and the claim that he would assert, the Court surmises, is far from ripe.

19 Rule 4 of the Rules Governing Section 2254 Cases in the United States
20 District Courts provides that “[i]f it plainly appears from the face of the petition and any
21 exhibits annexed to it that the petitioner is not entitled to relief in the district court, the
22 judge shall make an order for its summary dismissal and cause the petitioner to be
23 notified.”

24 Petitioner states no claim, in the most literal sense. In the section of the form
25 petition captioned for Grounds For Relief, Petitioner writes, under “Ground One,” simply
26 “See federal statutes for sentencing guidelines.” Under “Ground Two,” he advises the
27 Court to “See original transcripts of proceedings” and “see federal statutes.” This is far
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1 afield from stating a short, plain statement indicating Petitioner's entitlement to relief. *See*
 2 *generally* FED. R. CIV. P. 8. The Court will not write Petitioner's petition for him.

3 Moreover, Petitioner's next statement strongly indicates that amendment of
 4 the initial petition cannot save the action from dismissal. He states, "New issue based on
 5 federal order of release, Overcrowding." Presumably Petitioner has heard the rumblings
 6 from a special three-judge panel in *Coleman v. Schwarzenegger*, No. CIV S-90-0520 LKK
 7 JFM P [*sic*], slip op., 2009 WL 2430820 (E.D. Cal. Aug. 4, 2009), indicating the state
 8 prison system may be ordered to release a substantial percentage of its inmates due to
 9 allegations of overcrowding and poor conditions. But Petitioner is jumping the gun, for
 10 *Coleman* is not yet final. The panel's August 4, 2009 order required the state to present a
 11 plan for releasing a substantial proportion of "low-risk, nonserious, nonviolent offenders"
 12 within 45 days. The State filed its plan on September 18, 2009, but the *Coleman* panel
 13 rejected that plan on October 21, 2009 and ordered the State to provide another one. The
 14 State did so under protest on November 12, 2009, and the *Coleman* panel has not yet
 15 responded to that plan.


16 Even if *Coleman* were final, moreover, it is far from clear that Petitioner,
 17 whose petition indicates that he is serving a "Third Strike" life sentence, would be one of
 18 its beneficiaries. Thus, even if Petitioner had written his claim adequately, it would be
 19 unripe.

20 Accordingly, IT IS ORDERED that the Petition is DISMISSED.

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 22 DATED: 11/19/09

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 24 
 GEORGE H. KING
 UNITED STATES DISTRICT JUDGE

25 Presented By:

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 27 
 RALPH ZAREFSKY
 28 UNITED STATES MAGISTRATE JUDGE